



Campus and Community Coalition
To Reduce High-Risk Drinking

Community Relations Office, UMass Amherst
305 Whitmore Administration Building
Amherst, MA 01003

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Phone: (413) 545-2574
Fax: (413) 577-2360

www.umass.edu/ccc

February 12, 2010

To the Amherst Select Board;

As part of its ongoing efforts to reduce dangerous drinking behavior, the Campus and Community Coalition to Reduce High-Risk Drinking has voted to recommend that the Towns of Amherst, Hadley, Sunderland and Belchertown increase the fines for certain alcohol-related nuisance violations.

Dangerous and underage drinking, the unlicensed sale of alcohol and disruptive parties are a serious concern in our community. These problems often lead to injuries, property damage and traumatized neighborhoods. Research and practice shows us that clear and consistent policies and strong enforcement efforts are often the most effective strategies for curtailing these problems. The CCC has been working for the past five years to implement a variety of strategies to reduce illegal and binge drinking among students. These strategies have already resulted in a dramatic decrease in binge drinking behaviors among UMass students.

Raising fines for violations of the Keg Licensing Bylaw, Open Container Bylaw, Nuisance House/Social Host Bylaw and Noise Bylaw to the State-allowed maximum of \$300 for each offense will offer a stronger deterrent. In order for fines to be effective they should be swift, significant and proportional to community costs. Many of the current fine levels were instituted in the 1980s, when \$50, \$100 or \$200 had a very different relative value than today. Meaningful fines offer law enforcement an additional strategy for addressing these problem behaviors without causing the recipient to have a criminal record. Additionally, eliminating any tiered fee structures based on first or subsequent offenses simplifies the work of the responding Police Officer.

We hope that Amherst and Hadley will bring these bylaw revisions to their Annual Town Meetings in the spring. It is the Coalition's recommendation that Sunderland and Belchertown consider taking similar actions in order to discourage the migration of problematic behaviors across town lines to communities with less strict bylaws.

Thank you for your continued commitment to reducing dangerous drinking behavior and to the health and safety of our college students, local youth and our communities.

Sincerely,

Martha Nelson Patrick
Co-Chair, CCC

Sally Linowski, Ph.D.
Co-Chair, CCC

DRAFT – Proposed Changes to the Open Container Bylaw

Language proposed for elimination is ~~lined-out~~; proposed new language is in *red bold italics*, proposed changes from Town Counsel in *blue bold italics*.

ARTICLE II – GENERAL REGULATIONS

7. Open Containers of Alcohol (STM - February 26, 1986 - Art. 51)

No person shall consume any alcoholic beverage nor possess or transport any open can, bottle or other container containing any alcoholic beverage outdoors on any town street, sidewalk, way and public property including but not limited to parking lots, parks, school playgrounds, recreation areas, or conservation areas.

Whoever violates this section shall pay a fine of ~~not more than \$50.00~~ ***\$300*** for each violation.

DRAFT – Proposed Changes to the Noise Bylaw

Language proposed for elimination is ~~lined out~~; proposed new language is in *red bold italics*, proposed changes from Town Counsel in *blue bold italics*.

From “General Bylaws of the Town of Amherst Massachusetts, May 2009”

PROHIBITIONS

3. Unlawful Noise ATM - April 27, 1987 - Art. 50)

Section 1. **Unlawful Noise Prohibited.** It shall be unlawful for any person or persons to create, assist in creating, continue or allow to continue any excessive, unnecessary, or unusually loud noise which either annoys, disturbs, injures, or endangers the reasonable quiet, comfort, repose, or the health or safety of others within the town of Amherst. The following acts are declared to be loud, disturbing, injurious, unnecessary and unlawful noises in violation of this section, but this enumeration shall not be exclusive, namely:

- a) Radio, Phonograph, Musical Instruments and Television. The playing of any radio, phonograph, television set, amplified or musical instruments, loudspeakers, tape recorder, or other electronic sound producing devices, in such a manner or with volume at any time or place so as to annoy or disturb the reasonable quiet, comfort or repose of persons in any dwelling, hotel, hospital, or other type of residence, or in any office or of any persons in the vicinity.
- b) Shouting and Whistling. Yelling, shouting, hooting, whistling, singing, or the making of any other loud noises on the public streets, between the hours of 11: 00 p.m. and 7:00 a.m., or the making of any such noise at any time or place so as to annoy or disturb the reasonable quiet, comfort or repose of persons in any dwelling, hotel, hospital, or other type of residence, or in any office or of any persons in the vicinity.
- c) Animal Noises. The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the reasonable comfort or repose of any person.
- d) Devices to Attract Attention. The use of any drum or other instrument or device of any kind for the purpose of attracting attention by the creation of noise. This section shall not apply to any person who is a participant in a school band or duly licensed parade or who has been otherwise authorized to engage in such activity.

Section 2. **Exemptions.** None of the terms or prohibitions of the previous section shall apply or be enforced against:

- a) Emergency Vehicles. Any police or fire vehicle or any ambulance while engaged in necessary emergency business.

b) Highway and Utility Maintenance and Construction. Necessary excavation in or repairs of bridges, streets, or highways, or any public utility installation by or on behalf of the Town, or any public utility or any agency of the State of Massachusetts.

c) Public Address. The reasonable use of amplifiers or loud speakers for public addresses which are non-commercial in nature.

d) Noise caused by agricultural, farm-related, or forestry-related activities as defined by M.G.L. Chapter 128, Section 1A, as amended from time to time, including but not limited to the operation of farm equipment, sawmills, harvesting equipment, noises from farm animals, and the like.

Section 3. Penalties. ~~The first violation of this By-Law shall be punished by a fine of not less than one hundred dollars (\$100.00). The second violation of this by-law within 12 months after the first violation shall be punished by a fine of not less than two hundred dollars (\$200.00). Further violations within 12 months after the last violation shall be punished by a fine of three hundred dollars (\$300.00).~~ *Violation of this By-Law by-law shall be punished by a fine of not less than \$300 per offense.* Each such act which either continues or is repeated more than onehalf (1/2) hour after issuance of a written notice of violation of this by-law shall be a separate offense and shall be prosecuted as a separate offense. If the violation occurs on the premises of rental property which is a non-resident owner, then the owner must also be notified in writing that the violation has occurred.

Section 4. Other Remedies.

a) If the person or persons responsible for an activity which violates Section 1 cannot be determined, the person in lawful custody and/or control of the premises, including but not limited to the owner, lessee or occupant of the property on which the activity is located, shall be deemed responsible for the violation.

b) If the person or persons responsible for an activity which violates Section 1 can be determined, any person or persons who violate Section 1 of this by-law may be arrested without a warrant, provided that the violation occurs in the presence or view of any officer authorized to serve criminal process.

Section 5. Severability. If any provision of this by-law is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the by-law shall not be invalidated.

DRAFT – Proposed Changes to the Keg Licensing Bylaw

Language proposed for elimination is ~~lined-out~~; proposed new language is in *red bold italics*, proposed changes from Town Counsel in *blue bold italics*.

From “General Bylaws of the Town of Amherst Massachusetts, May 2009”

PROHIBITIONS

6. Keg Licensing STM - May 20, 1991 - Art. 24)

SECTION 1. Purpose To protect the health, safety and welfare of its inhabitants, this by-law shall permit the Town of Amherst to regulate the possession of kegs containing malt beverages, and the dispensing of malt beverages from kegs.

SECTION 2. Definitions

1. Licensee: any person, club, partnership, corporation or other entity licensed under the provisions of M.G.L. c. 138 to sell alcoholic beverages, including malt beverages.
2. Licensed Establishment: a retail establishment holding a license pursuant to M.G.L. c. 138 section 15 which sells alcoholic beverages for consumption off of the premises; and an establishment licensed pursuant to M.G.L. c. 138 section 12 which sells alcoholic beverages to be consumed on the premises.
3. Licensed Activity: an indoor or outdoor activity or enterprise for which a special license has been issued to a responsible manager, pursuant to M.G.L. c. 138 section 14.
4. Alcoholic Beverages: all liquids intended for human consumption as a beverage which contain one half of one per cent or more of alcohol by volume at sixty degrees Fahrenheit, including malt beverages.
5. Malt Beverages: all alcoholic beverages manufactured or produced by the process of brewing or fermentation of a malt, with or without cereal grains of fermentable sugars, or of hops, and containing not more than twelve per cent of alcohol by weight, including beer.
6. Keg: any metal, wooden, plastic, paper or other container designed to hold five and one-half (5.5) or more gallons of liquid and actually containing any amount of a malt beverage.
7. Person: an individual, firm, association, partnership, corporation or other combination of persons, and their agents, servants, employees, stockholders, officers or other person or any subsidiary whatsoever.
8. Sale: any transfer or exchange of alcoholic beverages in any manner or by any means whatsoever for direct or indirect consideration.

9. Dispense: to transfer or exchange alcoholic beverages, including pouring and the providing of access to such beverages, whether or not for monetary consideration.

10. Keg License: a special license issued by the Board of Selectmen of the Town of Amherst to permit the possession of malt beverage in a keg, and the dispensing of malt beverages from kegs, within the Town of Amherst.

SECTION 3. Requirement of License for Keg Possession

1. The Board of Selectmen of the Town of Amherst is authorized to issue keg licenses for the possession and dispensing of malt beverages in kegs within the Town of Amherst. The terms and conditions and fees for licenses granted under this section shall be determined by the Board of Selectmen, as the licensing authority pursuant to this by-law.

2. A keg license shall be required for the possession of a keg containing a malt beverage, and for the dispensing of a malt beverage from a keg, at any place other than a licensed establishment of a licensed activity.

3. A separate keg license shall not be required if the establishment or activity at which malt beverages will be dispensed is licensed pursuant to M.G.L. c. 138.

SECTION 4. Prohibition Within the Town of Amherst, it shall be unlawful for any person other than a licensee at a licensed establishment or activity to sell or dispense a malt beverage from a keg, or to otherwise possess a keg, unless such person has been issued a valid keg license.

SECTION 5. Enforcement This by-law shall be enforced by criminal complaint in the District Court. In the alternative, it may be enforced by the noncriminal disposition process of M.G.L. c. 40 section 21D. For the purpose of noncriminal enforcement, the enforcing persons shall be police officers of the Town of Amherst.

SECTION 6. Penalties Any person who violates Section 4 shall be fined in the amount of \$200 ~~for a first offense and \$300 for a second or subsequent offense~~ **\$300 for each violation.**

SECTION 7. Severability If any section, paragraph or provision of this by-law is held to be invalid or unenforceable, such invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this by-law, which shall remain in full force or effect.